

EMERGENCY MEETING
JUNE 27, 1989

PRESENT

Ruth Hansen	Mayor
Wesley J. Bloomfield	Council Member
Gayle Bunker	Council Member
David Church	Council Member
Rex T. Harris	Council Member

ABSENT

Don Dafoe	Council Member
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OTHERS PRESENT

Dorothy Jeffery:	City Recorder
Richard Waddingham	City Attorney

On June 27, 1989, an Emergency Meeting of the Delta City Council was called by Mayor Hansen, for the purpose of securing an insurance bid to obtain insurance for the 1989-1990 Fiscal Year, which Fiscal Year commenced July 1, 1989.

Mayor Hansen called the meeting to order at 6:00 p.m. Dorothy Jeffery:, City Recorder, acted as secretary. Mayor Hansen stated that notice of the meeting time, place and agenda was posted at the principal office of the governing body located at 76 North 200 West and was provided to the Millard County Chronicle/Progress. In addition the aforementioned notice, verbal notice was given to each of the Delta City Council Members who could be contacted.

Mayor Hansen called for a roll call vote to hold an emergency meeting. The voting was as follows:

Council Member Wesley Bloomfield	Yes
Council Member Gayle Bunker	Yes
Council Member David Church	Yes
Council Member Don Dafoe	Absent
Council Member Rex Harris	Yes

Attorney Waddingham recommended that the Mayor, City Council and City Recorder meet in closed session. Council Member David Church MOVED that the City Council meet in closed session for the purpose of discussing Delta City's Liability Insurance for FY 1989-1990. The motion was SECONDED by Council Member Wesley Bloomfield. Mayor Hansen asked if there were any further

comments or questions regarding the motion. There being none, she called for a vote. The voting was as follows:

Council Member Wesley Bloomfield	Yes
Council Member Gayle Bunker	Yes
Council Member David Church	Yes
Council Member Don Dafoe	Absent
Council Member Rex Harris	Yes

Following the closed session, Council Member Wesley Bloomfield MOVED to reconvene into open session at 7:00 p.m. The motion was SECONDED by Council Member David Church. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously.

Attorney Waddingham said that the purpose of the meeting was to inform the Council that the City needed a bid quote from Day-Leavitt Insurance Group and Nickle Insurance Agency for the purpose of having an Agent of Record so that insurance could be in place by June 30th.

The following is a corrected transcript and summary of an Emergency Meeting held June 27, 1989;

Attorney Waddingham: It has been my understanding that a letter was written last week signed by Mayor Hansen and addressed to PenCo Insurance Co. regarding an Agent of Record for the PenCo bid. (a copy of said letter is attached to these minutes for reference). It was also my understanding that the intent of the Council was not to give any one individual the right to bid on the insurance, but to allow both Nickle Insurance Agency and the Day-Leavitt Insurance Group the right to bid on the insurance. Was that the intent?

Attorney Waddingham: Can anyone tell me what led up to allowing both insurance companies the right to seek the PenCo bid?

Mayor Hansen: We had been waiting to get bids from these people. Mr. Nickle has never given us anything and time is fast approaching that we needed to have our insurance taken care of.

Attorney Waddingham: Is that the reason that Rex Day was given an Agent of Record letter?

Mayor Hansen: That is the reason that Rex was given a letter indicating that we would like him to bid.

Attorney Waddingham: Has John Nickle ever been given notice that he was to provide the City with information for insurance bids?

Dorothy Jeffery: Yes, when the Council decided to bid, I went to all four agents and asked them for bids. All four of them were given the information and were told when we wanted the bid. Paul

Pace and Mike Rose both contacted me and said that they would not be able to bid the City's insurance. The other two were given the same information and we were waiting for the bids.

Attorney Waddingham: Did you inform both Rex and John that they needed to give you information for the insurance bids.

Dorothy Jeffery: Yes.

Attorney Waddingham: Did either of them provide you with the information?

Dorothy Jeffery: I wasn't given any information. What Rex and John needed was information from me to get their bid prepared. Mike Broderick (Day-Leavitt Insurance) met with me at least twice and possibly three times gathering information for his bid. John already had the information because he was our present carrier and the information was in his file.

Attorney Waddingham: What did you need from John?

Dorothy Jeffery: The figures representing what his bid was going to be.

Attorney Waddingham: Why didn't he give them to you?

Dorothy Jeffery: I felt like John was avoiding meetings with me. I had asked to meet with John personally due to the fact that he could not provide me with information and facts over the telephone. I felt that he continuously delayed me. John told me he would get me the information that I requested from him, however, he never did provide me with anything.

As the deadline for obtaining insurance bids was approaching, John Nickle contacted me at my home and requested a meeting with me the same morning at my office. I informed John that I would meet him at his office. When I met John at his office, he requested a letter from me that he be designated the Agent of Record for the PenCo insurance bid. I told John that he would have to talk with the Council. When I left John's office, I went to Rex Day's office and told him about my meeting with John. I informed Rex that he may need to talk to John regarding who would be designated Agent of Record for the PenCo bid, since there appeared to be some confusion regarding this matter. I told Rex that I did not have the authority to give anybody an Agent of Record Letter and that John would need to meet with the Council.

Attorney Waddingham: Did you schedule meetings for John to meet with certain Council Members and the Mayor?

Dorothy Jeffery: Yes, we had a meeting with him scheduled for 10:30 a.m. I tried all day long to catch him, but no one was in his office. Later, about 4:30 p.m. when I was in your office I was still attempting to contact John. I called John's wife to

ask her if she knew where John was. She told me she would attempt to contact him by radio. However, I never received a response from either of them.
Attorney Waddingham: Did he ever make any other efforts to try to get you any bid information?

Dorothy Jeffery: No.

Attorney Waddingham: What prompted John to go to Rex, Gayle and Wes and ask for an Agent of Record letter, does any of the Council know? Mayor, have I stated the facts correctly? That because of John's inaction and failure to come to the meetings and provide information as requested you gave an Agent of Record letter to Rex Day to allow him to get the PenCo bid?

Mayor Hansen: That is my understanding of the situation?

Attorney Waddingham: Do you know what prompted him (John) to come back and request an Agent of Record letter four weeks after Rex Day was allowed to bid on the PenCo insurance? he given the letter.

Mayor Hansen: He never contacted me at all.

Attorney Waddingham: Who did he contact? Rex, did he contact you?

Rex Harris: Yes.

Attorney Waddingham: Did he contact you because he wanted to have the Agent of Record letter, or what was it that he wanted?

Rex Harris: He contacted me because he learned that PenCo had received an Agent of Record letter from someone else. Maybe that wasn't our intent, but that's what had happened. He then asked for a letter not as our agent, but to try to explain to PenCo that while Delta City had allowed someone else a chance to bid on the PenCo insurance by giving an Agent of Record letter, he was still our agent, which in fact he was until the first of July. I didn't have any problem with that, he was just trying to explain to PenCo that we wanted two bids.

Attorney Waddingham: One from John and one from Rex?

Rex Harris: Yes.

Attorney Waddingham: Has anybody on the Council ever guaranteed John that he would be given the insurance package?

Wesley Bloomfield: When I talked to him I expressed to him that it would be open for bid.

Attorney Waddingham: Did he come to you about the same letter Wes?

Wesley Bloomfield: He called me about it, but all he was asking when he talked to me was that the City give him (John) a letter saying that he was our current agent of record and, which I had no problem with because he had been carrying our liability.

Attorney Waddingham: What was his conversation with you Gayle?

Gayle Bunker: It was the same thing. He wanted to let PenCo know that he was our agent. There was nothing discussed for the insurance for the coming year, other than he did say because he was the agent that it would be easy for him to renew it. But that was the extent of our discussion.

Attorney Waddingham: Just for purposes of having a bid, not to guarantee him that he would have the right to handle our insurance this year?

Wesley Bloomfield: Yes, his conversation with me was simply to prove that he was still our current insurance carrier.

Attorney Waddingham: So was the letter allegedly written by the Mayor in your opinion, Rex or Wes or Gayle, strictly to put PenCo on notice that we wanted two bids, not to commit to any one person for insurance.

Rex Harris: That's correct in my case.

Attorney Waddingham: Is that correct with you Wes?

Wesley Bloomfield: Yes.

Gayle Bunker: Yes.

Wesley Bloomfield: I never really saw this letter that went out, but it was my understanding that all the letter would indicate was that he was the Agent of Record at this time and really nothing else.

Attorney Waddingham: But it was clear that Delta City may choose someone else to handle its insurance?

Wesley Bloomfield: That's correct and we discussed that. John did indicate that when he talked with me that he felt like that he had done us a good job and didn't really understand any reasons why we would want to change. But that was all we discussed I never gave him a positive or negative response.

Attorney Waddingham: So a letter was drafted?

Gayle Bunker: I might mention when he talked to me it was on a Tuesday evening. He wanted me to commit at that point.

Attorney Waddingham: To allow him to continue as Delta City's insurance agent?

Gayle Bunker: Right. I said no I would think about it. I said I'll think about it and I said I'm going to be out of town the next day, which was Wednesday, but I said I'll go into the City Thursday and see the letter. He indicated there would be a letter drafted. Now I didn't get the impression that he was going to draft it, but I got the impression he was going to talk with the Mayor and that the letter would be drafted.

Mayor Hansen: And I have never seen John in the past six months.

Gayle Bunker: Well, that was the impression I had so I came in to the City and I saw the letter. I couldn't see any thing in the letter that I disagreed with, so I felt it was fine.

Wesley Bloomfield: I had the impression when John talked to me that either Dorothy or the Mayor would draft the letter and that it would be signed by the Mayor. I had no idea that John would be drafting the letter for Delta City, which is inappropriate.

Attorney Waddingham: You both saw the letter, who did you believe drafted it?

Wesley Bloomfield: I never saw the letter until tonight.

Gayle Bunker: I saw the letter and I assumed that it must have been the Mayor because it had her signature on it.

Attorney Waddingham: Was it on Delta City stationery?

Gayle Bunker: The letter I saw was not on Delta City stationery.

Attorney Waddingham: The letter came from where Dorothy?

Dorothy Jeffery: It was given to me. First of all, I might state that John had asked me to draft a letter and I told him that I felt like I was not the person that should do it. Then I was given this letter and I was under the assumption that it came from the Mayor. It was on plain paper and I thought it had been approved but I still had Gayle, the Mayor and yourself look at it. Then we typed it on letter head.

Attorney Waddingham: I saw it and you know what my response was. I questioned it, but I sure was under the impression that the Mayor had written the letter since she signed it.

Mayor Hansen: And I was under the impression that the letter came from the Council members that John had talked to.

Attorney Waddingham: So it's pretty well established that John wrote the letter?

Dorothy Jeffery: It was definitely, I am sure from what they've said.

Attorney Waddingham: And even looking at the letter it was still your understanding that it was strictly to allow two bids, not to give anybody the right to provide the City with insurance?

Mayor Hansen: It says right in the letter, "The City Council may at its option accept other bids for its insurance needs"

Attorney Waddingham: And John wrote that? Now a decision is going to have to be made either to go with John or go with Rex, because you're running out of time.

Rex Harris: I don't owe John anything, not after this whole deal we're going through here. He wrote that letter.

David Church: After all of these letters that we'd written, because I've been after Dorothy to get the breakdown on that last year's bill and Dorothy's been trying, I think that's why he wouldn't ever call me. He didn't contact me at all.

Dorothy Jeffery: And I had asked him to on numerous occasions.

Mayor Hansen: Dorothy began this program months ago because we didn't want to be in the situation we are in now and the whole thing developed because we were getting no response out of John.

Rex Harris: That's sure correct.

Attorney Waddingham: And when you bring that up, Dave, about requesting the reimbursement, is there a letter on file Dorothy that said that he guaranteed to reimburse Delta City?

Dorothy Jeffery: It's in the minutes isn't it Dave.

David Church: It's not a letter, but it's in the minutes. We saved the verbatim minutes and in the part where Don Dafoe specifically asked him how much refund (for Delta City) are you talking about and he said about \$10,000, and that's right on the tape. I think it got transcribed out of the official minutes but it's on the verbatim copy of the minutes. So as a result of that, I had requested after he sent us this bill for \$57,573, which was \$10,000 more than what we budgeted for insurance - he was telling us that we would get \$10,000 back, then we got a bill from him saying that we still owed him \$1,600 - and that's when we started requesting a breakdown. We never got it until the day that Dorothy wrote a letter on January 24th saying that on numerous occasions I've requested a breakdown and if John didn't provide it by a certain date, I'll give this letter to Councilman Church or whatever.

Dorothy Jeffery: The letter is actually addressed to you. I had called John and said that I am out of time and unless I had those figures in my hands by 5:00 that afternoon, I was going to give

this letter to Dave Church. I made a note that he brought those figures down to me at 5 minutes to 5:00. I told Dave about the letter and I put it in the file with a notation that I hadn't mailed it out because I got the figures at that time. I thought at some point in time, we may need the facts to show how far I had to take this to get the figures that I was after.

Attorney Waddingham: O.K. You've got a meeting planned for tomorrow night. If you decide to make a motion to go with one or the other insurance agent tonight, you probably won't need a meeting tomorrow. One thing that should be in the minutes is that if you do decide to go with John, that John has informed me that anytime PenCo makes a bid to one insurance agent, it's good for another insurance agent.

Just because John receives the insurance bid, doesn't mean Delta City has to go with him. Delta City can go with another agent. John obviously recognizes that by the letter that he drafted. If you want to wait until tomorrow to make a decision so that you can hear John's proposal and then you want to change, you can do that. I think the best thing to do is to make a decision now, so that we can start first thing in the morning, which way you want to go with the insurance, between John and Rex.

Rex Harris: Well, he misrepresented everything, because the last I told him was to go iron this out with the Mayor. He didn't do what I asked him to do. He didn't come to the Mayor. He wrote that letter so that they (PenCo) could construe it to say we're staying with John. That wasn't my intent, and he didn't do what I told him to do. Right now I'm willing to make a motion to give this thing to Rex Day.

Council Member Rex Harris MOVED that Day-Leavitt Insurance be Delta City's Liability Insurance Carrier for FY 89-90. The motion was SECONDED by Council Member David Church. Mayor Hansen asked if there were any further comments or questions regarding the motion.

Attorney Waddingham: Just one thing, when you say Agent for PenCo, do you mean you are actually going to go with Day-Leavitt Insurance for the bid?

Rex Harris: Yes, for the bid.

Wesley Bloomfield: And you're making this motion because John has been unresponsive.

Rex Harris: Unresponsive and not really fair to us.

Mayor Hansen again asked for any further discussion or comments. There being none, she called for a vote. The motion passed unanimously.

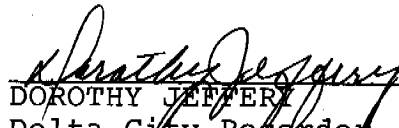
Attorney Waddingham: Am I instructed to try to contact PenCo and give them the facts?

Rex Harris: Yes

Council Member David Church MOVED to adjourn. The motion was SECONDED by Council Member Wesley Bloomfield. Mayor Hansen asked if there were any further comments, question regarding the motion. There being none, she called for a vote. The motion passed unanimously. Mayor Hansen declared the meeting adjourned at 11:00 p.m.



RUTH HANSEN, Mayor



DOROTHY JEFFERY
Delta City Recorder

MINUTES APPROVED: RCCM 8-28-89